

October 22, 2009
Ex Parte Notice

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Notice of Inquiry, National Broadband Plan for Our Future, Gen. Docket No. 09-51
(Apr. 8, 2009)

Dear Ms. Dortch:

On October 9, 2009, several academic and government economists met with members of the Commission staff to discuss topics potentially relevant to Commission policy-making. Economists in attendance included Judith Chevalier (Yale), Joseph Farrell (Federal Trade Commission and UC Berkeley), Shane Greenstein (Northwestern), Gregory Rosston (Stanford), Marius Schwartz (Georgetown), and Carl Shapiro (Justice Dept. and UC Berkeley). The government economists were speaking for themselves, not for their agency. Commission staff present included Jonathan Baker, Mark Bykowsky, Paul de Sa, Bruce Gottlieb, Jonathan Levy, Colleen Mallahan, Jon Peha, William Sharkey, Donald Stockdale, Walt Strack, Scott Wallsten, and Tracy Waldon. Five of the academic economists (all but Rosston) had participated earlier that day in a public workshop sponsored by the Commission's Omnibus Broadband Initiative.

The topics discussed included platform competition, network management disclosure policies, theoretical and practical implications of various pricing structures for broadband access, and consumer demand for broadband both now and in the future. The attached list summarizes arguments and facts presented at the meeting potentially relevant to the broadband notice of inquiry referenced above that go beyond what the participants presented at the public workshop or any associated submissions.

Please contact me if you have any questions.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Jonathan B. Baker".

Jonathan B. Baker
Chief Economist
Federal Communications Commission

Open vs. Closed Systems

Farrell: The virtues of closed systems include allowing firms to internalize complementary efficiencies and ensuring that new products are not constrained by the need to mesh with a standardized interface. The virtues of open systems include lower entry hurdles, mix-and-match benefits (as each firm does not have to be good at making every component of a system). The virtues of open systems may be systematically undervalued in public debate.

Shapiro: Closing of previously open systems may raise competition concerns.

Rosston: From an antitrust point of view it may be hard to have at once both open and closed systems if there are a limited number of providers.

Schwartz: It is likely that different people want different types of systems, so if there are multiple providers the choice should not be framed as one type of system versus another; there are benefits from variety.

Greenstein: The open vs. closed debate is different in the wireline world than in the wireless world. Wireless infrastructure providers have to make deals with handset makers to ensure their products work together. In the wireline world, at least in general, content providers don't have to get permission from network owners to provide content.

Disclosure

Chevalier: When there are multiple firms, disclosure facilitates the ability of their customers to "vote with their feet." This happens less in markets in which firms exercise market power; in those markets disclosure creates public pressure. Even disclosures made in fine print may be valuable because there are people who will read the fine print carefully and then write about their findings in tech articles or blogs. Disclosures are important because of a fundamental inference problem: consumers can't tell whether there is a problem with their ISP or with the application they are using.

Price Discrimination

Greenstein: Price discrimination to broadband customers based on network usage could have efficiency benefits.

Schwartz: Heavy users of bandwidth may be concerned that they would pay more if their Internet service providers have latitude in pricing.